IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.1618 OF 2005

IN

SUIT NO.2132 OF 2004

...

Anantrai Shantilal Shah ...Plaintiff

v/s.

Peace Constructions Pvt.Ltd.
and ors. ...Defendants

...

Mr.Sagar Kadam with Mr.M. Tally i/b S. Mohamadbhai & Co. for the Plaintiff.

Mr.R.S.Jaisinghani i/b J.D'silva for Defendants Nos. 1 to 5.

Mr.H.C.Pimpale for B.M.C.

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CORAM: D.K.DESHMUKH, J.

DATED: 15TH DECEMBER,2006

P.C.:

Without prejudice to the rights and contentions of the parties, by consent of parties, motion is disposed of in following terms:-

(i) Defendants Nos.1 to 5 shall pay to the Plaintiff within a period of two weeks from today an amount at the rate of Rs.10,000/- per month from July, 2004 till December, 2006.

(ii) Defendants Nos. 1 to 5 shall continue to pay to the Plaintiff an amount at the rate of Rs.10,000/- per month on or before 10th of each calender month till the Defendants Nos.1 to 5 offer for occupation to the Plaintiff the flat on the third floor in terms of the Development Agreement dated 24-11-2001 after obtaining Occupation Certificate in accordance with law.

(iii) It is common ground that the Defendants Nos. 3, 4 & 5 are occupying 4th, 6th & 7th floors in the building. It is also common ground the Corporation has not granted Occupation Certificate in relation to those premises. Within two weeks from today the Defendants Nos. 3, 4 & 5 shall file an undertaking in this Court undertaking to the court to vacate the premises presently occupied by them on the 4th, 6th and 7th floors of the building on expiry of a period of 16 (sixteen) weeks from today, unless they obtain Occupation Certificate from the Corporation in relation to the building earlier.

(iv) In case the Defendants Nos. 3, 4 & 5 fail to obtain Occupation Certificate before expiry of period 16 weeks and also do not vacate the premises as per their undertaking, it is directed that the Defendant No.7 Corporation shall get the premises vacated immediately, if necessary by taking police help.

(v) The learned Counsel appearing for the Defendants Nos. 3, 4 & 5 states that except 4th , 6th and 7th floors, the Defendants are not occupying any other premises in the building.

Statement is accepted.

(vi) Notice of Motion disposed of. Plaintiff, however, shall be at a liberty to take out fresh notice of motion for any other appropriate interim reliefs.

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